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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,227	06/26/2003	William E. Spindler	WC10002.US	5896

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EXAMINER

CARRILLO, BIBI SHARIDAN

ART UNIT PAPER NUMBER

1746

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Am

Office Action Summary	Application No. 10/607,227	Applicant(s) SPINDLER, WILLIAM E.	
	Examiner Sharidan Carrillo	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06262003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/26/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 33-36 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for carbonate, phosphate, silicate, borate, hydroxide, does not reasonably provide enablement for any alkaline reactant. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

The claims embrace an invention which contains any known alkaline reactant, which could/can be selected from literally thousands. It does not appear to be feasible that any alkaline reactant would function in the present invention. Further, for one skilled in the art to reproduce the present invention (which must be possible, if the specification is adequate), there would clearly be undue experimentation to do so in an attempt to figure out which alkaline reactants work and which ones do not.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 33-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 33 is indefinite because it is unclear how the alkaline reactant is selected to raise the pH of the cleaning compound if the cleaning compound consists of both the peroxide and the alkaline reactant. Claim 33 is indefinite because there is no positive step of cleaning the surface of a food processing environment. Claim 34 is indefinite because it is unclear what is meant by high-foaming. Claim 36 is indefinite because it is unclear whether the composition of both the peroxide and the alkaline reactant are dry or whether it is only the alkaline reactant. The claim is further indefinite because it is unclear whether the dry formulation is added to the surface or whether the dry alkaline reactant is added to the peroxide to form an aqueous solution which is then added to the surface.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 33-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Kramer et al. (5320805).

Kramer teaches a method of cleaning food processing plants using a composition having an alkaline water soluble salt (i.e. sodium carbonate) and hydrogen peroxide (col. 1, lines 10-12, col. 2, lines 13-15, lines 34-39, col. 4, lines 1-12). In reference to pH, refer to col. 5, lines 10-12. In reference to claim 34 and in view of the indefiniteness, refer to col. 2, lines 48-52. In reference to claim 35, Kramer teaches

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mixing both peroxide and alkaline salt to form a solution (claim 1). In reference to claim 36, Kramer teaches that the composition may be applied as a bulk powder (col. 3, lines 63-65, col. 8, lines 1-3).

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claim 33-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Ramirez et al. (US2003/0078178).

Ramirez teaches a method of cleaning equipment in food processing industries by treating with an alkaline pH cleaning solution comprising peroxide and an alkaline reagent (i.e. hydroxide, silicate, phosphate, carbonate, paragraph 43, abstract). In reference to “consisting essentially of” refer to paragraph 43. In reference to the pH, refer to paragraph 49. In reference to claim 34 and in view of the indefiniteness, refer to the abstract and paragraph 18. In reference to claim 35, the limitations of different containers are inherently met since paragraph 49 teaches preparing a liquid solution by mixing a series of ingredients. In reference to claim 36, refer to paragraphs 59 and 60.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cannon et al. teach aqueous based cleaner for removal of

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residue. Weinstein teaches high alkali cleaning concentrates. John teaches cleaning surfaces with grease suing peroxide.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 571-272-1297. The examiner can normally be reached on M-W 6:30-4:00pm, alternating Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharidan Carrillo
Primary Examiner
Art Unit 1746

bsc



SHARIDAN CARRILLO
PRIMARY EXAMINER